IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

State of Rajasthan & Anr. vs. Ganesh Dan Charan & Anr.

S.B.CIVIL WRIT PETITION NO.2386/2007

DATE OF ORDER :: May 07, 2007

PRESENT

HON'BLE MR.JUSTICE H.R.PANWAR

Mr.B.L.Tiwari, Deputy Government Advocate, for the petitioners.

BY THE COURT:

By the instant writ petition under Article 226 of the Constitution of India, the petitioners seek quashing of order Annexure-P/3 dt. 10.10.2005 passed by respondent No.2, Labour Court, Bikaner (for short `the Labour Court' hereinafter).

Facts giving rise to the instant writ petition are that respondent-workman was engaged by 1.1.1988 and, thereafter he had been continuing on the post of vehicle driver, though his appointment was temporary in nature. It appears that the services of the respondent-workman were terminated and he

filed a writ petition before this Court and ad interim order was granted in favour of respondent-workman. However, the writ petition came to be dismissed on 10.7.1997 relegating the respondent-workman to alternative remedy before the Labour court. The respondent-workman approached the appropriate Government for making a reference to the Labour Court under the Industrial Disputes Act, 1947 (for short `the ID Act' hereinafter) raising the dispute. The dispute raised by the respondent-workman was referred to the Labour Court vide order dt. 16.10.1999. Thereafter, on notice to the parties, the respondent-workman filed the statement of claim. Petitioners filed reply to the statement of claim. The Labour Court adjudicated the reference and answered the same vide Annexure-P/3 dt. 10.10.2005 holding therein that the retrenchment of the respondent workman was in violation of the provisions of ID Act. He was directed to be reinstated with continuity of the service, however, no back wages was granted to the respondent-workman except a sum of Rs.2500/- as compensation. Hence, this writ petition.

I have heard learned Deputy Government Advocate for the petitioners at length.

It appears that the respondent-workman is in service with

the petitioners w.e.f. 1.1.1988. He has served a long period. However, the services of the respondent-workman were retrenched and he preferred a writ petition before this Court and by virtue of ad interim order, he continued in service and thereafter, the writ petition came to be dismissed on the ground of availability of alternative remedy and the respondent-workman was relegated to the Labour Court. He approached the appropriate Government for making a reference to the Labour Court under the ID Act. The dispute raised by the respondent-workman was referred to Labour Court vide order dt. 16.10.1999 and the reference came to be adjudicated vide order dt. 10.10.2005, which shows that the respondent-workman has been in service for about nine years and the retrenchment was found to be in violation of the provisions of ID Act.

In the circumstances, therefore, keeping in view the peculiar facts and circumstances of the case, in my view, it is not a fit case warranting interference in the writ jurisdiction.

The writ petition is, therefore, dismissed. There shall be no order as to costs.

H.R.PANWAR],J.

m.asif/-